

- (3) "Secretary" means the Secretary of Environment and Natural Resources.
- (4) "Temporary rule 15A NCAC 2B.0233" means 15A NCAC 2B.0233 (Neuse River Basin: Nutrient Sensitive Waters Management Strategy: Protection and Maintenance of Riparian Areas with Existing Forest Vegetation), adopted as a temporary rule by the Commission effective 22 July 1997, amended by the Commission effective 22 April 1998, and continued in effect by Section 1.2 of this act.

Section 1.2. Permanent rule disapproved; temporary rule continued in effect. -- Pursuant to G.S. 150B-21.3(b), 15A NCAC 2B.0233 (Neuse River Basin: Nutrient Sensitive Waters Management Strategy: Protection and Maintenance of Riparian Areas with Existing Forest Vegetation), as amended by the Commission and approved by the Rules Review Commission on 19 February 1998, is disapproved as a permanent rule. Notwithstanding G.S. 150B-21.1(d), 15A NCAC 2B.0233 (Neuse River Basin: Nutrient Sensitive Waters Management Strategy: Protection and Maintenance of Riparian Areas with Existing Forest Vegetation), as amended by the Commission effective 22 April 1998, shall remain in effect as a temporary rule until the revised temporary rule required by Section 1.8 of this act becomes effective. The Commission and the Department shall implement temporary rule 15A NCAC 2B.0233 as provided in Section 1.3 of this act.

Section 1.3. Implementation of the temporary rule: determination of surface waters; forest vegetation defined. -- (a) Until the effective date of the revised temporary rule that the Commission is required to adopt by Section 1.8 of this act, the Commission and the Department shall implement temporary rule 15A NCAC 2B.0233 as provided in this section.

(b) For purposes of implementing temporary rule 15A NCAC 2B.0233, the presence of surface waters in the Neuse River Basin, including intermittent streams, perennial streams, lakes, ponds, and estuaries shall be determined solely as provided in this subsection and subsection (c) of this section. Surface water is presumed to be present on a particular parcel or tract of land if surface water appears on either the most recent versions of the soil survey maps prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent versions of the 1:24,000 scale (7.5 minute quadrangle) topographic maps prepared by the United States Geological Survey (USGS).

(c) The General Assembly recognizes that the soil survey maps and the USGS topographic maps may be in error in that these maps may indicate the presence of surface water where no surface water is actually present and may fail to indicate the presence of surface water where surface water is actually present. Any question as to the accuracy or application of the maps to a particular parcel or tract of land shall be referred to the Director of the Division of Water Quality of the Department. A determination of the Director as to the accuracy or application of the maps is subject to review as provided in Articles 3 and 4 of Chapter 150B of the General Statutes. The Commission shall make the final agency decision in a contested case